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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Federal Communications Commission
Office of Secretary

In the Matter of)	
)	
Amendment of Section 73.202(b))	MM Docket No. 98-18
Table of Allotments)	RM-9204
FM Broadcast Stations)	
(Macon and Hampton, Georgia))	
)	
)	
)	

To: Chief, Allocations Branch
Mass Media Bureau

REPLY COMMENTS

Dogwood Communications, Inc. ("Dogwood"), permittee of WAMJ-FM in Roswell, Georgia, hereby submits its reply to the comments filed in response to the *Notice of Proposed Rule Making*, DA 98-289 (Feb. 11, 1998) ("NPRM"), which sought public comment on a proposal filed by U.S. Broadcasting Limited Partnership ("Petitioner") to amend the Commission's Table of FM Allotments to reallocate Channel 300C1 from Macon, Georgia, to Hampton, Georgia, and modify the license for Station WPEZ(FM) to specify Hampton as the station's community of license.¹

¹ Counsel for Petitioner contacted the undersigned on the afternoon of April 28, 1998 and requested consent to an extension of one day because of Counsel's computer problems. Undersigned consented on the understanding that all parties would consent to the one-day extension and that this Reply would therefore be deemed to be timely-filed.

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1. In its comments, Dogwood pointed out that the proposed reallocation of Channel 300C1 from Macon to Hampton would be inconsistent with the public interest and that the modification application to upgrade Station WAMJ should therefore be granted. In the alternative, Dogwood proposed that the Commission impose a site restriction of at least 26.5 kilometers south-southeast of Hampton in order to accommodate Dogwood's pending modification application.

2. Two other parties also filed timely comments. Cox Radio, Inc. ("Cox") opposed the proposed reallocation of Channel 300C1 from Macon to Hampton because the community of Hampton is a suburban community in close proximity to Atlanta, a major urbanized area. Cox argued that Hampton is not independent of Atlanta and that the proposed change in community of license is in essence a reallocation to a well-served metropolitan area at the expense of a much smaller, less populated area. On that basis, Cox concluded that Hampton would not be entitled to a first local service preference..

3. Petitioner is the only party to file comments in support of the *NPRM*. For the most part Petitioner offers no new information and merely relies on the Petition for Rule Making it filed in support of the proposed reallocation of Channel 300C1 to Hampton. However, Petitioner does offer two statements which warrant a reply. First, Petitioner states that implementation of its proposal can be accomplished with "complete compliance with the Commission's minimum FM channel separation requirements as set forth in Section 73.207 of the Commission's Rules. . . ." Comments of Petitioner at 4. Second, Petitioner's supporting Engineering Statement asserts that Petitioner can construct a Class C1 facility with maximum

power of 100 kilowatts and maximum antenna height of 299 meters HAAT. *See* Petitioner's Comments, Engineering Statement at 2. Neither statement can be squared with the known facts.

4. Contrary to Petitioner's claim, the proposed reallocation of Channel 300C1 to Hampton will not comply with Section 73.207 of the Commission's rules. Dogwood filed its modification application for Station WAMJ on March 9, 1998, and that application appeared on public notice on March 23, 1998. *See Public Notice*, Broadcast Applications, Report No. 24203. In its comments in the instant proceeding, Dogwood submitted an allocation study that showed the short spacing between Petitioner's proposal and Dogwood's modification application. The study reveals that the required separation between Channel 300C1 at Hampton and Channel 298C3 at Roswell is 76 kilometers and that the conflicting proposals advanced by the parties are only 65.6 kilometers apart. Dogwood's modification application, filed March 9, 1998, was filed prior to the April 13, 1998, the deadline established in the *NPRM* for filing counterproposals. Thus, the modification application filed by Dogwood and the change in communities advanced by Petitioner are mutually exclusive, and the Commission must resolve the mutually exclusivity of the two proposals in the instant rule making proceeding. *Amendment of the Commission's Rules to Permit FM Channel and Class Modifications by Application*, 8 FCC Rcd 4735, 4739 (1993) (conflict between a petition for rule making and an application to modify facilities filed prior to the deadline for counterproposals will be resolved in the rule making proceeding). In short, Petitioner's proposal cannot be granted *ab initio*.

5. As explained in the Engineering Statement annexed hereto as Exhibit 1, Petitioner's proposal to operate with maximum Class C1 facilities of 100 kilowatts and 299 meters HAAT is equally problematic because of FAA and zoning restrictions. Petitioner's proposal to modify the license for Station WPEZ to Channel 300C1 at Hampton will require the construction of a new transmitting facility because no tower is located at the coordinates specified as the reference point. Consequently, Petitioner is proposing to construct a tower with a height slightly in excess of 299 meters in order to satisfy its plan to operate at maximum facilities.

6. According to the report prepared by William F. McPhaul of the Airspace Safety Analysis Corporation ("ASAC") and annexed hereto as Exhibit 2, the reference coordinates specified by Petitioner are located within 10 nautical miles of five public use airports and 20 private use airports. ASAC concludes that the FAA is not likely to approve a tower greater than 500 feet, almost half the height proposed by Petitioner. That restriction would severely reduce the proposed coverage of a station at Hampton. The 60 dbu contour would then encompass less than 1,214,043 persons (compared to the 1,994,701 persons claimed by Petitioner). *See* Exhibit 1 at 4.

7. The Commission's policy is to accommodate FAA concerns when considering the viability of a particular channel. Otherwise, a channel could be allocated to a location where the facility cannot be constructed because of air space safety concerns. For example, in *Amendment of Section 202(b) (Sebring and Miami, Florida)*, 10 FCC Rcd 6577 (MMB 1995), the Commission found that the only potential site was within 10,000 feet of

an airport terminal and FAA approval for such a transmitter site would not be granted. The Commission therefore refused to allot a Class A channel because there were “no satisfactory sites available that would meet FAA criteria and the Commission’s spacing requirement.” 10 FCC Rcd at 6578. *See also Amendment of Section 202(b) (Wilmington, North Carolina et. al.)*, 6 FCC Rcd 6969 (MMB 1991) (Commission declined to allot a television channel because it would require an antenna tower with a height potentially unacceptable to the FAA); *Amendment of Section 202(b)(Weaverville, California)*, 12 FCC Rcd 2965 (MMB 1997) (Commission declined to add a Class A channel because of technical limitations imposed by the proximity of the available site area to a local airport and the corresponding height that would be required to comply with the Commission’s rules).

8. Petitioner’s FAA problems are compounded by the location of its reference point in Fayette County. *See Exhibit 1 at 4.* That county has a restrictive zoning ordinance, a copy of which is annexed hereto as Exhibit 3, that will probably limit or preclude construction of a tower in excess of 500 feet. *See Exhibit 3 at 5-14, Section D-8.* The ordinance requires that a tower be set back from “all adjoining properties zoned residential or A-R a distance equal to the height of the tower or 200 feet, whichever is greater.” *See id.* at 5-14, Section D-3(a). That requirement is imposed so that a tower can collapse in an area wholly within the boundaries of property owned or leased by the owner of the tower. A tower of 299 meters would require that Petitioner own or lease a minimum of 72 to 111 acres of property. Petitioner does not explain whether or how it could accommodate that zoning restriction at or near its chosen reference point.

9. In sum, then, a grant of Petitioner's proposal would not serve the public interest. First, it would be inconsistent with the public interest to remove a channel from a community that has enjoyed service for 25 years and reassign it to a community which is 1/46th the size and which currently receives ample broadcast service. Second, it cannot be assumed that Petitioner will be able to construct the maximum Class C1 facility it proposes and thereby achieve the population converge it predicts. Third, as Cox explains in its comments, Hampton is not independent of the Atlanta Urbanized Area and does not deserve credit for first local service.

10. If the Commission agrees that Petitioner's proposal is not entitled to priority as a first local service, then the proposals of Dogwood and Petitioner would be compared to determine which should be preferred.² Neither Dogwood nor Petitioner would satisfy the first three priorities, and the comparison would therefore be based upon other public interest factors.

11. An analysis of the public interest factors shows that an upgrade of an existing station in Roswell is far more deserving than the provision of yet another new service to the Atlanta Urbanized Area.

² To make this determination, the Commission applies its FM allocation priorities to the particular facts. Those priorities are: (1) first full-time aural broadcast reception service, (2) second full-time aural broadcast reception service, (3) first local broadcast transmission service and (4) other public interest factors. Co-equal weight is given to priorities (2) and (3). *Revision of FM Assignment Policies and Procedures*, 90 FCC2d 88, 92 (1982).

12. First, a comparison between the communities of Macon and Hampton shows that Macon is more deserving of continued service than Hampton is of a first local service. The population of Macon is 106,612, compared with the population of Hampton, which is 2,294. Allotting Channel 300C1 to Hampton will result in the allocation of at least a 20th aural service to Hampton at the expense of eliminating an 11th aural service to the more populous community. See Petitioner's Comments, Engineering Statement at Figure 4. Such a reallocation does not serve the public interest. *Amendment of Section 202(b) (Bay City, et. al.)*, 10 FCC Rcd 3337 (1995) (Commission declines to allot a channel to a community of 1,388 persons where it would constitute a 20th aural service). *Accord Amendment of Section 202(b) (Greenfield and Del Ray Oaks, CA)*, 4 CR 1276 (MMB 1996) (Commission declines to allot a channel to a community of 1,661 persons where it would constitute a 15th aural service at the expense of deleting that channel from a community of 7,464 persons).

13. Second, Dogwood's improved facilities will yield an increase in population serving 2,195,992 persons in its 60 dbu contour. As a Class C3 facility, Dogwood will have a net gain in population within its 60 dbu contour of 517,324 persons, of which 135,770 persons are of minority heritage, Dogwood's target audience. See Dogwood's Comments, Engineering Statement at 3, 4.

14. Third, no persons will lose service if Dogwood modifies its operation from a Class A to a Class C3 facility and changes transmitter sites. In contrast, the net loss in service that will result from Petitioner's proposal is 452,266 persons, a very substantial loss.

15. Fourth, a grant of Petitioner's proposal will result in an inefficient use of the spectrum due to the constraints imposed on construction by the FAA and local zoning ordinances.

16. Finally, a grant of Dogwood's proposed modification application will result in a community of 47,923 being served with a more powerful signal. In contrast, granting Petitioner's proposal would result in the allotment of a full-powered Class C1 facility to a community 1/20th the size of Roswell.


17. If the Commission rejects the compelling arguments offered by Dogwood and Cox and concludes that Hampton is deserving of a first local service, then the Commission should allot Channel 300C1 to Hampton with a reference point 26.5 kilometers south of that community to permit a grant of both proposals. *See* Dogwood's Comments, Engineering Statement at 6. That resolution would be the minimum required by Commission policy. *See Conflicts Between Application and Petitions for Rulemaking to Amend the FM Table of Allotments*, 8 FCC Rcd 4743, 4745 n.12 (1993) (Commission will resolve conflicts between a pending application and a rulemaking proposal by "imposing a site restriction on the rulemaking petition or by allotting an alternate channel for that proposed in the petition").

WHEREFORE, in view of the foregoing and the entire record herein, it is respectfully requested that the Commission deny the Petition for Rule Making to reallocate Channel 300C1 to Hampton, Georgia from Macon, Georgia, or, in the alternative, grant the Petition subject to a site restriction.

Respectfully submitted,

Dickstein Shapiro Morin & Oshinsky, LLP
2101 L Street, N.W.
Washington, D.C. 20037-1526
(202) 785-9700

ATTORNEYS FOR DOGWOOD
COMMUNICATIONS, INC.

By: 

Lewis J. Paper
Jacob S. Farber

Exhibit 1

JOHN J. MULLANEY
JOHN H. MULLANEY, P.E. (1994)

ALAN E. GEARING, P.E.
THOMAS J. JOHNSON

301 921-0115 Voice
301 590-9757 Fax
mullengr@aol.com E-mail

MULLANEY ENGINEERING, INC.

9049 SHADY GROVE COURT
GAITHERSBURG, MD 20877

ENGINEERING EXHIBIT EE-1:

**MM DOCKET 98-18 - REPLY COMMENTS
FM CH. 300C1 - HAMPTON, GEORGIA
COUNTERPROPOSAL TO PERMIT UPGRADE BY
WAMJ CH. 298C3 - ROSWELL, GEORGIA**

APRIL 28, 1998

**ENGINEERING STATEMENT IN SUPPORT OF
REPLY COMMENTS
CONCERNING A COUNTERPROPOSAL IN MM DOCKET 98-18
BY DOGWOOD COMMUNICATIONS, INC.
TO PERMIT THE UPGRADE OF
WAMJ CH. 298C3 AT ROSWELL, GEORGIA**

**ORIGINAL
SIGNATURE**

MULLANEY ENGINEERING, INC.

ENGINEERING EXHIBIT EE-1:

**MM DOCKET 98-18 - REPLY COMMENTS
FM CH. 300C1 - HAMPTON, GEORGIA
COUNTERPROPOSAL TO PERMIT UPGRADE BY
WAMJ CH. 298C3 - ROSWELL, GEORGIA**

TABLE OF CONTENTS:

1. Declaration of Engineer.
2. Narrative Statement.
3. Figure 1, Channel Allocation - Roswell - C3 Application. #
4. Figure 2, Channel Allocation - Hampton - Proposed Site. #
5. Figure 3, Channel Allocation - Hampton - Alternate Site. #
6. Figure 4, Allowable Area Map - Hampton, GA. #
7. Figure 4-A, Expanded Allowable Area Map - Hampton, GA.

- On file.

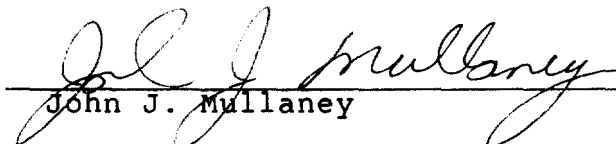
Figures 1, 2, 3 & 4 were filed April 13, 1998.

MULLANEY ENGINEERING, INC.

DECLARATION

I, John J. Mullaney, declare and state that I am a graduate electrical engineer with a B.E.E. and my qualifications are known to the Federal Communications Commission, and that I am an engineer in the firm of Mullaney Engineering, Inc., and that firm has been retained by Dogwood Communications, Inc., to prepare reply comments in support of a counterproposal in MM Docket 98-18.

All facts contained herein are true of my own knowledge except where stated to be on information or belief, and as to those facts, I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.


John J. Mullaney

Executed on the 28th day of April 1998.

MULLANEY ENGINEERING, INC.

ENGINEERING EXHIBIT EE-1:

**MM DOCKET 98-18 - REPLY COMMENTS
FM CH. 300C1 - HAMPTON, GEORGIA
COUNTERPROPOSAL TO PERMIT UPGRADE BY
WAMJ CH. 298C3 - ROSWELL, GEORGIA**

NARRATIVE STATEMENT:

I. GENERAL:

This engineering statement has been prepared on behalf of Dogwood Communications, Inc., permittee of Radio Station WAMJ(FM) which operates on FM Channel 298A at Roswell, Georgia. The purpose of this statement is to support reply comments in continued support of a counterproposal in MM Docket 98-18. That docket is considering the reallocation of Ch. 300C1 from Macon, Georgia to Hampton, Georgia and the modification of the license of WPEZ(FM) to specify Hampton as its community of license.

II. ENGINEERING DISCUSSION:

A. Hampton RM Proposal is Short Spaced:

When initially filed on November 19, 1997, the Hampton RM proposal was properly spaced to all existing or pending proposals. However, since that time and prior to the comment date (April 13, 1998) in MM Docket 98-18 a conflicting proposal was timely filed with the FCC.

On March 9, 1998, WAMJ filed a 301 application (BPH-980309IE) requesting a construction permit

authorizing a "one-step" upgrade to C3 facilities on Ch. 298C3 at Roswell, GA. The site proposed in the WAMJ upgrade application is just 65.6 km from the special reference site specified in MM Docket 98-18 for Ch. 300C1 at Hampton. Section 73.207 specifies that the minimum separation between a C3 & C1 facility operating two channels apart is 76 km. Given that a 10.4 km short spacing would result it is clear that both proposals are mutually exclusive.

Section 73.215 permits an existing licensee or permittee to propose an operation from a short spaced site. However, in situations involving 2nd adjacent C3 to C1 facilities the minimum separation under Section 73.215 is 75 km or a maximum 1 km short spacing. Given that a 10.4 km short spacing would result, WAMJ is prohibited from requesting processing under Section 73.215 and thus, both proposals are mutually exclusive.

The initial comments filed by Dogwood in MM Docket 98-18 contained a channel allocation study from the site proposed by WAMJ on Ch. 298C3 (Fig 1). Those comments also contained a channel allocation study from the site proposed in the Hampton NPRM (Fig 2). Both Figures 1 & 2 clearly establish the resulting short spacing. Thus as currently pending, both the Roswell C3 application and the Hampton RM reference point are mutually exclusive.

B. Hampton RM - Proposes Maximum Facilities:

U.S. Broadcasting Limited Partnership, licensee of WPEZ(FM) at Macon, Georgia, has filed a request to reallocate Ch. 300C1 from Macon to Hampton, Georgia and to modify the license of WPEZ to specify Hampton as its community of license. In comments in support of its request, WPEZ has stated that it proposes to build a

maximum facility C1 facility (100 kW at 299m HAAT).

Since it was not explicitly stated in the comments filed by WPEZ, WAMJ has independently determined through the examination of local terrain conditions that the antenna center of radiation must achieve a height of 547 meters (1794 feet) AMSL in order to achieve an HAAT of 299 meters (981 feet). Thus the tip height will be 561 meters (1842 feet) AMSL assuming the use of an 8 bay FM antenna (mounted 3 meters below the top of the structure). Given that the base elevation in the area varies from 730 to 945 feet the structure will need to be 270 to 336 meters (887 to 1102 feet) in height Above Ground Level (AGL). A review of FAA records indicates that no tower currently exists at the NPRM site.

The analysis by William F. McPhaul of the Airspace Safety Analysis Corporation (ASAC), clearly indicates that construction of a tower in excess of 500 feet AGL is very doubtful.

Figure 4-A is a 1:250,000 aeronautical map which illustrates the site proposed in the Hampton RM while also showing the required separation to other FM stations or proposals. This map is similar to Figure 4 contained in Dogwood's initial comments except that it is more detailed. This map clearly shows the locations of local airports and that of State Route 16 which is deemed a VFR flyway.

The FAA restricts tower heights within 2 miles of VFR flyways to 500 feet or less. In order for WPEZ to remain at least 2 miles from Route 16 and in order to avoid a short spacing it will be necessary for WPEZ to move at least 5 miles to the southeast of the site proposed in the NPRM.

In addition to limitations imposed by the FAA, WPEZ's tower location is likely to be restricted by the need to accommodate local zoning ordinances. The site proposed by the NPRM is located in Fayette County which has a 100% set-back rule. Accordingly, an 1102 foot tower is required to be at least 1102 feet from any property boundary. Thus, assuming a square piece of property, a tower which is 887 to 1102 feet tall will require 72 to 111 acres.

WPEZ's failure to achieve an HAAT of 299 meters will substantially reduce the population contained within the 60 dBu contour. Assuming maximum facilities at the NPRM reference point, the Hampton facility will serve 1,999,393 persons. However, should WPEZ fail to achieve approval for a tower in excess of 500 feet, then the population within the 60 dBu will be less than 1,214,043 persons.

C. Hampton Proposal - Alternate Proposal:

In its initial comments, Dogwood submitted an alternate special reference point for use by Ch. 300C1 at Hampton. The alternate site (33-11-00 / 84-08-00) is located some 29.7 km (18.5 miles) east-southeast of the site contained within the NPRM. However, the alternate site is only 26.5 km (16.5 miles) south-southeast of Hampton, GA. It should be noted that this is just 6.1 km (3.8 miles) further than the site restriction initially proposed in the NPRM. Given that a maximum C1 facility has a theoretical city grade radius of 50 km the requested site restriction of 26.5 km is well within acceptable standards. It has been determined that a facility operating with an ERP of 100 kW at HAAT of 80 meters (262 feet) will provide F(50,50) city grade service to 100% of Hampton.

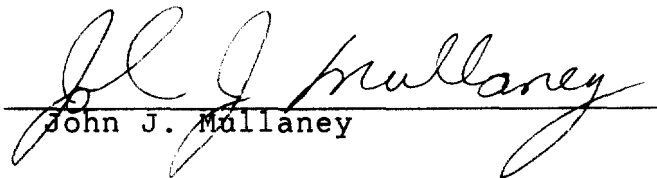
Dogwood recognizes that it is only necessary to theoretically propose a site which is 15.9 km (9.9 miles) southeast of that contained within the NPRM. However, such a reference point (33-10-00 / 84-18-28) would be 7 km from the Griffin-Spalding County Airport and within 2 miles of a potential VFR Flyway. Consequently, there is a substantial question whether a tower in excess of 500 feet could be constructed. The alternate site is over 13 km from any public use airport and is not within 2 miles of any obvious VFR Flyway. Thus, construction of a much taller tower is possible at that later site.

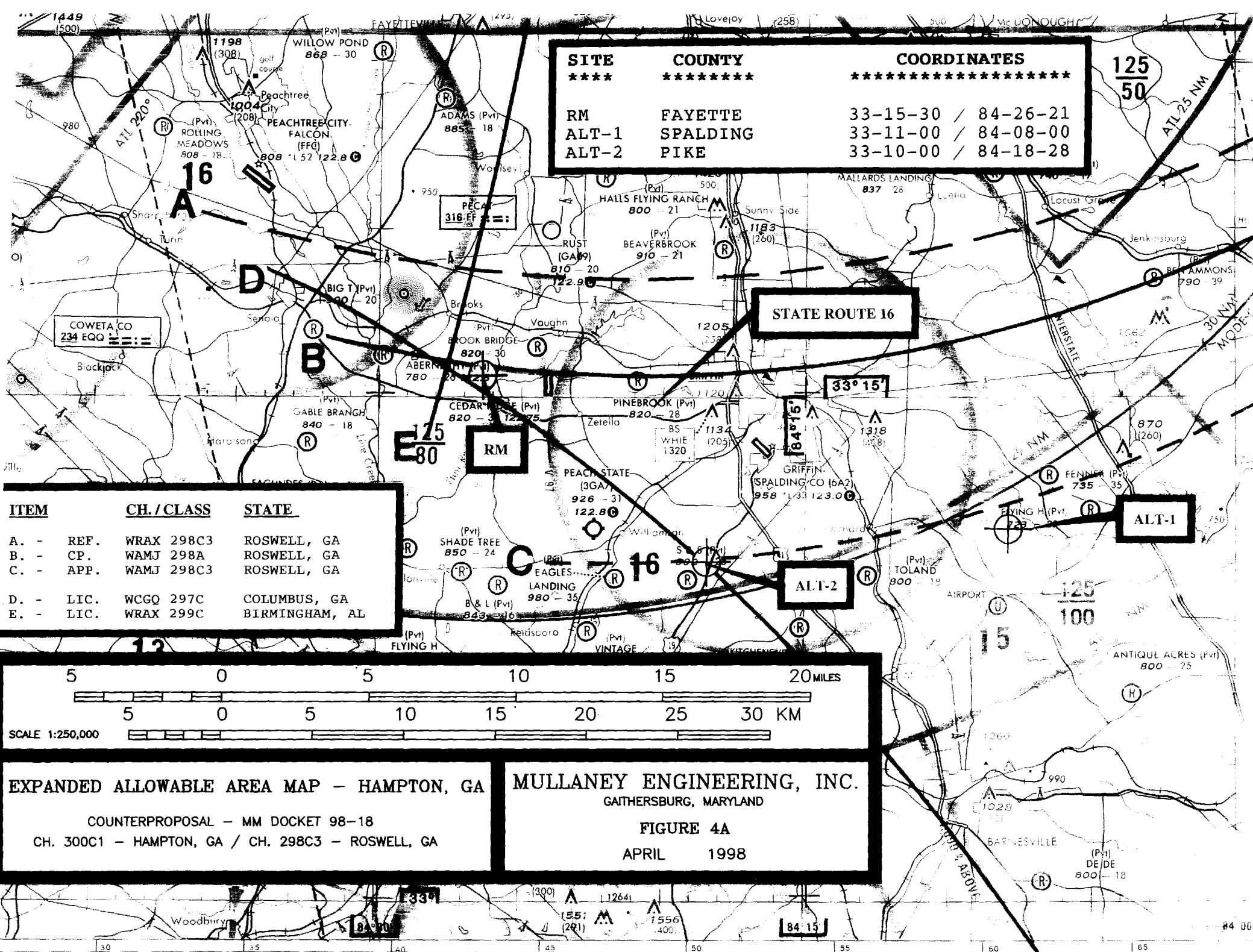
Figure 4-A shows the location of both alternate sites proposed herein. Either alternate site will totally eliminate any short spacing with WAMJ's C3 upgrade application.

III. SUMMARY:

Dogwood Communications, Inc., permittee of WAMJ at Roswell, Georgia, herein submits reply comments in support of its counterproposal in MM Docket 98-18 involving the reallocation of Ch. 300C1 from Macon, Georgia to Hampton, Georgia and the modification of the license of WPEZ(FM) to specify Hampton as its community of license. Dogwood requests that at a minimum the staff impose a 26.5 km site restriction on the Hampton allotment so as to protect the pending "one-step" C3 upgrade application of WAMJ. Such a site restriction will permit the grant of both proposals.

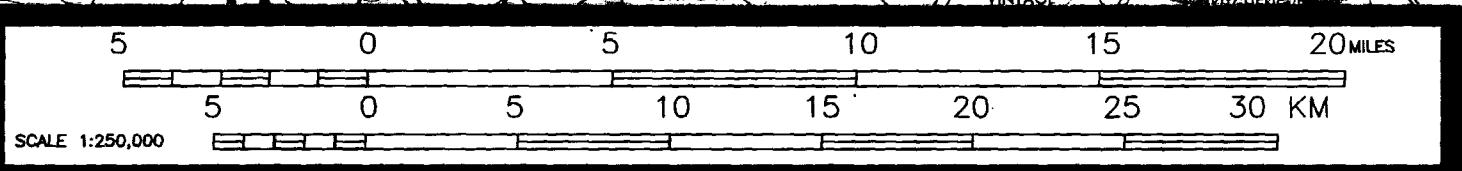
April 28, 1998.


John J. Mullaney



SITE	COUNTY	COORDINATES
****	*****	*****
RM	FAYETTE	33-15-30 / 84-26-21
ALT-1	SPALDING	33-11-00 / 84-08-00
ALT-2	PIKE	33-10-00 / 84-18-28

ITEM	CH./CLASS	STATE
A. - REF.	WRAX 298C3	ROSWELL, GA
B. - CP.	WAMJ 298A	ROSWELL, GA
C. - APP.	WAMJ 298C3	ROSWELL, GA
D. - LIC.	WCGQ 297C	COLUMBUS, GA
E. - LIC.	WRAX 299C	BIRMINGHAM, AL



EXPANDED ALLOWABLE AREA MAP - HAMPTON, GA

COUNTERPROPOSAL - MM DOCKET 98-18

CH. 300C1 - HAMPTON, GA / CH. 298C3 - ROSWELL, GA

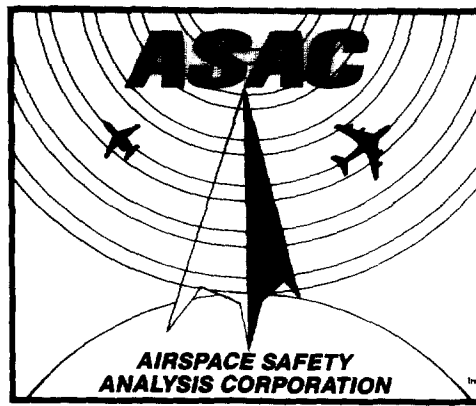
MULLANEY ENGINEERING, INC.

GAITHERSBURG, MARYLAND

FIGURE 4A

APRIL 1998

Exhibit 2



*"Because You Want It
Right On The
First Approach."*

April 23, 1998

To Whom it May Concern:

On April 9, 1998, I conducted an aeronautical study to determine the maximum structure height which would likely be approved by the FAA at a site located Southeast of Brooks, Georgia. The site coordinates are NAD 83, Latitude - 33° 15' 30" N/ Longitude - 084° 26' 21" W.

As stated in the report, the site is located below airspace protected for an IFR approach procedure into Atlanta, Peachtree City Falcon Field. With regards to this approach procedure, the maximum allowable height is 1,549' AMSL. Also, following a conversation between ASAC and the FAA Southern Regional Headquarters, it was determined that State Route 16 will most likely be considered by the FAA to be a VFR flyway. Within 2 SM (10,560') either side of a VFR flyway, the maximum allowable height is 500' AGL. The study site was well within 2 SM of State Route 16.

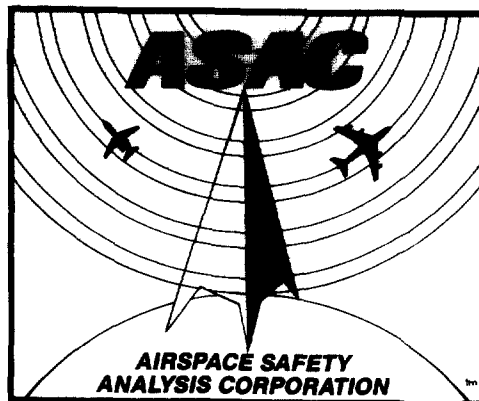
Should you have any questions regarding this letter or the study conducted by ASAC, please feel free to contact my office anytime at (770) 994-1557.

Sincerely,

Airspace Safety Analysis Corporation


William F. McPhaul
Chief Operating Officer

Two Crown Center
1745 Phoenix Boulevard
Suite 120
Atlanta, Georgia 30349
770/994-1557 • FAX 770/994-1637



*"Because You Want It
Right On The
First Approach."*

OBSTRUCTION EVALUATION FOR
DOGWOOD COMMUNICATIONS, INC.

ASAC Study Number: RAD 18469 98

Date: April 9, 1998

Site ID/Name: Brooks, Georgia "Hampton Site"

Site Location:

Latitude: 33° 15' 30"
Longitude: 84° 26' 21"
NAD 83

Site Elevation: 750' AMSL **
Tower Height: ***' AGL
Overall Height: ***' AMSL

This study is conducted in accordance with the Federal Aviation Regulations (FAR) Part 77 and the Federal Communications Commission (FCC) Rules Part 17.

* This study is conducted to determine the airspace issues at the above coordinates.

** ASAC determined the elevation at this site to be approximately 750' MSL. Nearby elevation ranges from approximately 730' MSL to 945' MSL.

IMPACT:

MINIMUM EN ROUTE ALTITUDE:

No factor.

VFR ROUTES:

The site falls within, what will no doubt be protected for, a VFR flyway along State Route 16. The findings section of this report will address this issue.

AIRPORT IMPACT:

For regulatory compliance purposes, the nearest landing surface, the approach end of Runway 09 at Rust Airstrip is located 29,109' (4.79 NM) on a True Bearing of 21.24° from the study site. The airport reference point (ARP) at this public use, VFR only Airport is located 29,334' (4.83 NM) on a True Bearing of 22.85° from the study site. This airport is not a factor for the study site. However, if the site is relocated to the North, Rust Airstrip could become a factor.

Brook Bridge Aerodrome is a private use airport located 9,779' (1.61 NM) on a True Bearing of 057.10° from this site. Cedar Ridge is a private use airport located 11,969' (1.97 NM) on a True Bearing of 095.60° from this site. Private use airports or heliports do not meet FAR 77 criteria and the FAA would not consider them in its study of the proposed structure. However, in the interest of flight safety, ASAC considers private use airports in every study. No doubt the owners of these two private use airports would object to a tall structure located at the study site.

ASAC found a total of 5 public use airports and 20 private use airports located within 10 NM of the study site. Enclosed is a listing of all airports located within 11 NM of this site.

IFR effects will be discussed under section FAR 77.23 of this report.

FAR 77 AND TERPS ANALYSIS:

- FAR 77.13 (a)(1) (Construction over 200' AGL at its site);
- Exceeding 200' AGL will exceed this surface and would require FAA notice of Proposed Construction.
- FAR 77.13 (a)(2)(i) (Structure within 20,000' from the nearest runway at an airport with a runway length of more than 3,200');
- No factor. The nearest landing surface which meets this criteria is located 33,015' from the study site.
- FAR 77.13 (a)(2)(ii) (Structure within 10,000' from the nearest runway at an airport with a runway length of 3,200' or less);
- No factor. The nearest landing surface which meets this criteria is located 29,108' from the study site.
- FAR 77.13 (a)(2)(iii) (Structure within 5,000' from the nearest point of the nearest landing and takeoff area of each specified heliport);
- No factor.

* "Notice of Proposed Construction" is required if the structure exceeds 200' AGL.

FAR 77.23 (a)(1)

(Structure over 500' AGL);

If the proposed structure exceeds 500' AGL it would exceed this surface. Exceeding 500' AGL would also, by itself, trigger an extended study. The extended study will trigger public notice and comments from the public. It would add approximately 90 days to the FAA's normal processing time.

FAR 77.23 (a)(2)

(Structure over 200' AGL or above the established airport elevation, whichever is higher, within 3 NM of the established reference point of an airport which has a runway more than 3,200 feet in length. This height increases 100' for each additional mile up to 500' AGL);

Exceeding 463' AGL at this site will exceed the Peach State FAR 77.23 (a)(2) surface. By itself, exceeding this surface does not indicate that the structure would be considered a Hazard to Air Navigation. It would however, trigger an extended study to be conducted by the FAA. This extended study would add approximately 90 days to the FAA's normal processing time.

FAR 77.23 (a)(3)

(TERPS, Terminal Operations);

The study site is located below airspace protected for IFR approaches to Atlanta, Peachtree City Falcon Field. With regards to these procedures, the maximum no hazard height is 1,549' AMSL or approximately 799' AGL depending on the exact site elevation.

FAR 77.23 (a)(4)

(TERPS, En Route Operations);

No factor.

FAR 77.23 (a)(5)

(The takeoff and landing area of an airport or any imaginary surface established under FAR 77);

No factor. The study site is clear of area airport's takeoff and landing areas and imaginary surfaces.